IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11105 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

C.J.PARMAR

Versus

A'BAD MUNI. CORPORATION

Appearance:

1. Special Civil Application No. 11105 of 1994

NOTICE SERVED for Petitioner No. 1

AN GULIWALA for Petitioner No. 2/A/1-5

NOTICE SERVED BY DS for Petitioner No. 2/A/1-2/C

PARTY-IN-PERSON for Petitioner No. 3-5

MR PRASHANT G DESAI for Respondent No. 1-2

MR SIRAJ GORI, AGP for Respondent Nos. 3-4

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 23/07/2003

ORAL JUDGEMENT

1. Heard Mr.Guliwala, learned advocate, for the petitioners, Mr.Prashant G. Desai for respondent Nos.1 and 2 and Mr.Siraj Gori, the learned A.G.P., for respondent Nos.3 and 4.

2. This petition, under Article 226 of the Constitution of India, seeks a declaration that the land admeasuring 1157.09 Sq. yards bearing City Survey No.4251 in Shahpur Ward - 2 in City of Ahmedabad be de-reserved / de-designated as period of ten years has lapsed from the date of reservation / designation.

3. The petitioners owned land admeasuring 1157.09 Sq. yards of City Survey No.4251 in Shahpur Ward - 2 in City of Ahmedabad. On 15-01-1976, by virtue of the provisions of Section 12(2)(b) of the Gujarat Town Planning and Urban Development Act, 1976 (hereinafter referred to as 'the Act'), the respondent - Ahmedabad Municipal Corporation reserved the said plot of land in development plan for the purposes of a school. It is an admitted position that thereafter a period of ten years has elapsed and no action has been initiated under Section 20 of the Act for either acquiring the land by agreement or under the provisions of the Land Acquisition Act, 1894. It is also further an admitted fact that no steps for acquisition have been taken.

4. In this admitted factual matrix it is common ground between the parties that by virtue of the provisions of Section 20(2) of the Act, the period of ten years has elapsed and though the petitioner has called upon the respondent - Corporation to take necessary steps for acquisition, no such steps have been taken. In the circumstances, it is not necessary to dilate any further as the position in law is well settled by the decision of the Apex Court in the case of Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd. & Ors., (2003) 2 SCC 111. It is laid down in the said decision that despite service of notice by the landowner if no steps are taken for acquisition, land would stand dereserved / de-designated and there would be no automatic extension of reservation / designation under the development plan.

5. In light of the aforesaid fact situation and the settled position, this petition required to be allowed. The respondents are directed to treat the aforesaid land admeasuring 1157.09 Sq. yards of City Survey No.4251 in Shahpur Ward-2 in City of Ahmedabad as de-reserved / de-designated land. Rule made absolute. No order as to costs.

Sd/-

[D.A.MEHTA, J]

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'Bhavesh'